

December 3, 2002

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TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M2-03-0255-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor with a specialty and board certification in orthopedic surgery. The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ was a 44-year-old male who was injured at work while lifting a crate on ___. He had x-rays and a CT scan because he was complaining of severe low back pain. He was treated with muscle relaxants and pain medication along with physical therapy. He continued to complain of back pain and he was then referred to ___, a spine surgeon. The patient was worked up with an MRI study, myelogram, CT scan and a discogram. ___ recommended surgery. A second opinion was obtained with ___, who is also a spine surgeon. ___ stated that the patient had been off of work since the injury occurred and he had no intention of returning to work in the near future. He also noted a paucity of objective findings. ___ felt that the bulk of the treatment was not needed and felt that he had reached MMI and had recovered from his lumbosacral strain. He did not feel that any further care was indicated. A third opinion was obtained from another spine surgeon who felt that laminectomy at the L5-S1 level with removal of the disc was indicated. ___ did this procedure on July 13, 1994. The patient did not receive any lasting relief of the symptoms. He was investigated again with MRI studies and EMG studies. He was found

to have scar tissue formation around the area where the lumbar laminectomy had been done, but no further surgery was recommended.

___ then began seeing ___ in 1998. He received extensive physical therapy from ___, medication and psychological counseling. Also, a discogram was done in December, 1999. This was followed by a request for an IDET procedure. The carrier denied this procedure. The patient continued to see ___ on a regular basis for medicine refills and over the years, ___ has continued to prescribe various medications. He has had the patient go through a chronic pain management program, but the patient has never returned to gainful employment.

In 2001, ___ began requesting “coblation nucleoplasty.” The carrier denied this. Month after month, ___ writes long progress notes which essentially are the same thing and are repeated each time saying that the patient needs an IDET procedure or coblation nucleoplasty or he needs electrodiagnostic studies, repeat MRIs and all of these studies that are needed but nothing is ever approved by the carrier. He also suggested a spinal cord stimulator and requested that from the insurance company, but the patient said that he did not want to have any part of that, and it was declined. ___ ordered magnetic therapy for the patient. The record indicates that the patient has not improved with any treatment thus far and he has still not been able to return to the workplace.

REQUESTED SERVICE

___ is requesting laser assisted spinal endoscopy for ___.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

The reviewer finds no reason to do the laser assisted spinal endoscopy. This procedure is still felt to be within the investigational stage and is not an accepted procedure with any type of benefit that could be given this patient. Laser assisted spinal endoscopy does not fall into usual and customary treatment for lumbar spine conditions. The reviewer does not find that this procedure should be done. There is no medical literature to back up the use of this procedure for this patient, therefore this procedure is not indicated.

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding by mail and, in the case of time sensitive matters by facsimile, a copy of this finding to the treating doctor, payor and/or URA, patient and the TWCC.

Sincerely,

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

In the case of prospective ***spinal surgery*** decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within 10 days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other ***prospective (preauthorization) medical necessity*** disputes a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings, Texas Worker's Compensation Commission, P.O. Box 40669, Austin, TX 78704-0012. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(t)(2).